

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER



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BRIAN C. McNEIL
EXECUTIVE SECRETARY
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ARIZONA CORPORATION COMMISSION

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MEMORANDUM

AZ CORP COMMISSION
DOCUMENT CONTROL

TO: Docket Control
Chairman William A. Mundell
Commissioner Jim Irvin
Commissioner Marc Spitzer

FROM: Janice M. Alward

DATE: April 1, 2002

RE: Amended Decision No. 64495
Case No. 117, Docket No. L-00000P-01-0117
Duke Energy Arlington Valley Project

In the original order on rehearing drafted for your signature, there was an inadvertent omission of a phrase to delete Condition 21 concerning recharge of water usage for a dry-cooled plant, which the Commission voted to no longer include as a condition for Duke's CEC.

I have drafted a Proposed Amended Decision No. 64495 for your consideration which corrects the inadvertent omission.

cc: Thomas Campbell
James H. Oeser
Neil A.M. Peters
Laurie Woodall
Dean Miller
Shelly Hood

Arizona Corporation Commission
DOCKETED

APR 01 2002

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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

CASE NO. 117

Docket No. L-00000P-01-0117

**PROPOSED AMENDED
DECISION NO. 64495**

IN THE MATTER OF THE APPLICATION OF DUKE
ENERGY OF ARLINGTON VALLEY L.L.C. IN
CONFORMANCE WITH THE REQUIREMENTS OF
ARIZONA REVISED STATUTES §40-360.03 AND
§40-360.06 FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AUTHORIZ-
ING THE CONSTRUCTION OF A NATURAL GAS-
FIRED, COMBINED CYCLE GENERATING
FACILITY (ARLINGTON VALLEY ENERGY
FACILITY II) NEAR ARLINGTON IN MARICOPA
COUNTY, ARIZONA

Arizona Corporation Commission ("Commission") Decision No. 64357 granted Duke Energy
Arlington Valley L.L.C. ("Duke") a Certificate of Environmental Compatibility ("CEC") for its
Arlington Valley Energy Facility II with certain conditions. Duke timely filed an application for
rehearing of Decision No. 64357, which was granted by the Commission. Upon rehearing and
reconsideration of this matter, the Commission voted to modify Decision No. 64337 by changing
Condition Numbers 20 and 22, and deleting Condition Number 21. However, the written order on
rehearing, Decision No. 64495, inadvertently omitted express language deleting Condition Number
21. Duke has requested a technical correction of Decision No. 64495 for clarification purposes. This
Amended Decision No. 64495 clarifies the conditions under which the Commission granted the CEC,
and expressly finds and concludes that these conditions serve as findings on the matters raised during
the course of proceedings.

The Commission hereby amends Decision No. 64495 by restating the conditions under which
the Commission approves the CEC, deleting any condition no longer applicable, and renumbering the

1 conditions as follows:

2 1. The Applicant will comply with all existing applicable air and waste pollution control
3 standards and regulations, and with all existing applicable ordinances, master plans and regulations of
4 the State of Arizona, Maricopa County, the United States, and any other governmental entities having
5 jurisdiction, including but not limited to the following:

- 6 a. all zoning stipulations and conditions, including but not limited to the
7 landscaping and dust control requirements and/or approvals;
- 8 b. all applicable air quality control standards, approvals, permit conditions and
9 requirements of the Maricopa County Air Quality Control District and/or other
10 State or Federal agencies having jurisdiction, and the Applicant shall install
11 and operate selective catalytic reduction and catalytic oxidation technology at
12 the level determined by the Maricopa County Air Quality Control District and
13 approved by EPA Region IX. The Applicant shall operate its project so as to
14 meet a 2.5 ppm NOx emissions level, within the parameters established in the
15 Title V and PSD air quality permits issued by the Maricopa County Air
16 Quality Control District for the plant. If technically and economically feasible,
17 Applicant shall install and operate catalytic oxidation technology that will
18 produce a carbon monoxide (CO) and volatile organic compound (VOC)
19 emission rate equivalent to California's current best available control
20 technology (BACT) standard.
- 21 c. all applicable water use requirements of the Arizona Department of Water
22 Resources, and Phoenix Active Management Area, including but not limited to
23 development plan approval, certificate of irrigation grandfathered rights, and
24 applicable management plans;
- 25 d. all applicable water quality and disposal requirements of the Arizona
26 Department of Environmental Quality regulations;
- 27 e. all applicable noise control standards, and during normal operations the Project
28 shall not exceed applicable (i) HUD or EPA residential noise guidelines or (ii)
OSHA worker safety noise standards;
- 29 f. all applicable regulations and permits governing storage and handling of
chemicals.

30 2. This authorization to construction AVEF II will expire upon five (5) years from the
31 date this Certificate is approved by the Arizona Corporation Commission ("Commission") unless
32 construction is completed to the point that the facility is capable of operating at its rated capacity;
33 provided, however, that prior to such expiration Applicant or its assignee may request that the
34 Commission extend this time limitation.

35 3. Applicant will submit to the Commission an interconnection agreement with the
36 transmission providers with whom it is interconnecting before commencing commercial operation.

1 4. Applicant or its affiliate company will become a member of the Western Systems
2 Coordinating Council ("WSCC") (or its successor), and file a copy of its WSCC Reliability Criteria
3 Agreement or Reliability Management System (RMS) Generator Agreement with the Commission.

4 5. Applicant will use reasonable efforts to become a member of the Southwest Reserve
5 Sharing Group (or its successor) if commercially reasonable and if involved in the selling of
6 wholesale power to a commercially identifiable load, thereby making Applicant's units available for
7 reserve sharing purposes, subject to competitive pricing.

8 6. Subject to the Federal Energy Regulatory Commission rules and tariffs and WSCC
9 RMS requirements, Applicant shall commit to offer as ancillary services a total 7% of its total plant
10 capacity to the local Control Area with which it is interconnected and to Arizona's regional ancillary
11 service market once a Regional Transmission Organization is operational, and until such time that a
12 Regional Transmission Organization is operational, to a regional reserve sharing pool.

13 7. Applicant shall make commercially reasonable efforts to execute wholesale power
14 sales to credit worthy Arizona load-serving entities serving Arizona load and to marketers providing
15 service to those Arizona load serving entities.

16 8. The Applicant shall file deed restrictions limiting the use of its property within a .50
17 mile radius of the generation facility (AVEF II) to non-residential uses so long as AVEF II is
18 operational.

19 9. From the period beginning 30 days from the date a Certificate of Environmental
20 Compatibility is approved by the Commission, continuing until the generation facility's construction
21 has been completed, Applicant, subject to applicable county regulations, shall erect and maintain at
22 the project site a sign of not less than 15 feet by 10 feet dimensions or of a size at the maximum
23 dimensions for such signs permitted by the local governmental authority, advising:

- 24 a. that the site has been approved for the construction of a 600 megawatt
25 generating facility
26 b. the expected date of completion of the facility
27 c. if the facility is not timely completed pursuant to the Certificate of
28 Environmental Compatibility, the Applicant would have to seek an extension
 of the certificate or again pursue approval from the Power Plant Line Siting
 Committee before it could construct the project. This would afford persons

1 residing in the project's vicinity an opportunity to express their viewpoint
2 through public comment and/or by formally intervening in the application
3 approval process.

4 10. Where feasible, Applicant shall make commercially reasonable efforts to invite, and
5 shall give full consideration to, bids from qualified local and in-state construction subcontractors for
6 construction of the Project.

7 11. The Applicant shall operate its evaporation pond so that any salt residue contained
8 therein shall not cause damage to crops grown on fields adjacent to the Project site.

9 12. Applicant shall use a zero discharge system for its cooling water, subject to existing
10 regulatory requirements.

11 13. Applicant shall use low profile structures, moderate stacks, neutral colors, compatible
12 landscaping and low intensity directed lighting for the plant. Applicant shall use non-reflective
13 conductors and towers.

14 14. Applicant shall implement a Land Management Plan that includes:

- 15 a. Installation of a professionally designed landscape plan for the entrance of the
16 facility and along both sides of Elliot Road.
- 17 b. A comprehensive revegetation program that will restore a large portion of the
18 property with plant communities similar to the adjacent desert lands.
- 19 c. A partnership with The Arizona Game and Fish Department to provide
20 enhanced wildlife habitat on lands that border Centennial Wash.
- 21 d. An annual report (for six years) submitted to the Arizona Corporation
22 Commission setting forth the status of the Land Management Plan.
- 23 e. Including Mr. Neil A.M. Peters, intervenor, and other interested parties, in
24 implementation discussions and shall keep them informed of all aspects of the
25 land management plan.

26 15. Applicant will convene a workshop in early 2002 to address gas transportation
27 reliability and capacity issues, both short term and long term. Participants will include other Arizona
28 gas-fired power plant owners and wholesale gas transportation providers. The initial workshop will
29 identify issues and establish a timeline for producing a report to the Arizona Corporation
30 Commission in 2002. This topic will be reviewed in subsequent workshops convened by the
31 Applicant in 2003 and 2004. These workshops will allow for public participation.

1 16. Once construction commences on the Project, Applicant will pay up to \$11,000,000
2 for the upgrades to the North Gila and Kyrene transmission lines set forth in the Report on the
3 Preliminary Study for the Palo Verde Interconnection prepared for the Palo Verde Interconnectors
4 and Western Arizona Transmission System Task Force, dated February 20, 2001 (the "WATS
5 Study") at pages 29-31. Applicant will contact the transmission owners of the upgraded lines to
6 determine the earliest opportunity for the transmission lines to be upgraded and Applicant will use
7 commercially reasonable efforts to assure that such upgrades are completed before AVEF II is in
8 commercial operation. Nothing in this paragraph is intended to preempt any Federal Energy
9 Regulatory commission (FERC) order or regulation concerning either interconnection or transmission
10 service, nor grants Applicant any priority in either interconnection or transmission service, nor
11 guarantees that Applicant will receive transmission service.

12 17. Applicant shall participate in good faith in state and regional transmission study
13 forums, such as the Central Arizona Transmission Study, to terminate a second transmission line out
14 of the Arlington Valley Energy Facility that serves the transmission system grid needs to deliver
15 power throughout the Western Systems Coordinating Council grid in a reliable manner. Applicant
16 shall take all commercially reasonable efforts to ensure that such transmission line shall be timely
17 constructed in accordance with the needs of the integrated transmission grid, although Applicant is
18 not required by this Decision to build, finance, operate or own such transmission line.

19 18. Applicant shall construct a 500kV switchyard of ring bus design and capable of
20 accommodating four terminals and upgradable to a breaker and one-half design if so required by local
21 regional reliability criteria. Two of the terminals will be used to connect to the phases of the
22 Applicant's project designated as AVEF I and AVEF II each consisting of 600 MW of generation.
23 The remaining two terminals will provide for connection to the transmission grid, i.e., one for the
24 transmission connection currently under construction to the Hassayampa switchyard associated with
25 AVEF I and one for a future transmission line to be terminated elsewhere. The switchyard shall be of
26 conventional open air design consisting of high voltage power circuit breakers, disconnect switches,
27 grounding switches, potential transformers, surge arrestors, steel structures and protective relaying.
28 Nothing in this order precludes Applicant from seeking reimbursement for these switchyard costs

1 from future users of the switchyard. Applicant shall file a late-filed exhibit describing the
2 switchyard, including its location and a diagram of the facility.

3 19. Applicant's Project shall be designed and constructed to accommodate two
4 transmission lines emanating from its power plant's transmission switchyard and interconnecting
5 with the existing transmission system. One of these will interconnect with the Hassayampa 500 kV
6 switchyard. This plant interconnection must satisfy the single contingency outage criterion (N-1)
7 after the second transmission line interconnecting with the transmission grid is complete, without
8 reliance on remedial action such as generator unit tripping or load shedding.

9 20. The Applicant shall participate in the Central Arizona Water Conservation District's
10 Agua Fria Recharge Project, in cooperation with the Arizona Water Banking Authority. The
11 Applicant shall recharge 3,900 acre-feet/year of water or an amount equal to its actual water usage,
12 whichever is greater, through the recharge project for the useful life of the AVEF II facility, subject
13 only to availability of water supplies. If the Applicant earns long-term storage credits from its
14 participation in the Agua Fria Recharge Project, it shall not reclaim those credits in any manner
15 whatsoever.

16 21. The Arlington Valley Energy Facility II shall be required to meet the Lowest
17 Achievable Emission Rate ("LAER") for Carbon Monoxide (CO), Nitrogen Oxides (NOx), Volatile
18 Organic Compounds (VOCs), and Particulate Matter less than ten microns in aerodynamic diameter
19 (PM₁₀). The Applicant shall be required to submit an air quality permit application requesting this
20 LAER to the Maricopa County Environmental Services Department. LAER shall be determined by
21 the Maricopa County Environmental Services Department.

22 22. If during the first twenty years of commercial operation of the AVEF II facility (a) an
23 air quality permit is issued in Environmental Protection Agency (EPA) Region IX requiring a
24 combined-cycle combustion turbine generator located in an area having the same designation at that
25 time (attainment or nonattainment) as the AVEF II facility site to control NOx emissions to a level
26 less than 2.5 ppm, and (b) the Commission or the Applicant has determined that use of the technology
27 required to comply with such lower standard would be economically feasible for the AVEF II
28 facility, then within twenty-four months of such determination, Applicant shall install and operate

1 control technology to control NOx emissions at the AVEF II facility to such lower standard.
2 Applicant shall not be required to install new control technology more than once every ten years.

3 23. The Applicant, its successors(s) or assignee(s) shall submit a self-certification letter
4 annually, identifying which conditions contained in the CEC as amended, have been met. Each letter
5 shall be submitted to the Utilities Division Director on August 1, beginning in 2002, describing
6 conditions which have been met as of June 30. Attached to each certification letter shall be
7 documentation explaining, in detail, how compliance with each condition was achieved. Copies of
8 each letter, along with the corresponding documentation, shall also be submitted to the Arizona
9 Attorney General and the Directors of the Arizona Department of Environmental Quality,
10 Department of Water Resources, and Department of Commerce Energy Office.

11 24. If the Applicant, its successor(s) or assignee(s) after notice and hearing, is found to
12 have failed to comply with any conditions herein, the Commission shall impose appropriate sanctions
13 up to and including the revocation of the authority to construct facilities granted by this Commission
14 Decision, which would result in the CEC being rendered null and void in its entirety.

15 25. The Commission is approving this CEC as a package of inter-related requirements and
16 conditions that must all remain in force in order to merit Commission approval. If the Applicant, its
17 successor(s) or assignee(s) pursue a legal challenge of any condition herein, the authority to construct
18 facilities granted by this Commission Decision shall be revoked and the Certificate rendered null and
19 void in its entirety without further order of the Commission.

20 THE COMMISSION FINDS AND CONCLUDES as to the above-restated conditions under
21 which the CEC is granted that: (1) the Arlington Valley Energy Facility II Project is in the public
22 interest because it aids the state in meeting the need for an adequate, economical and reliable supply
23 of electric power; (2) in balancing the need for the Arlington Valley Energy Facility II Project with
24 its effect on the environment and ecology of the state, the conditions placed on the CEC as modified
25 by the Commission, effectively minimize its impact on the environment and ecology of the state; (3)
26 the conditions placed on the CEC as modified by the Commission, resolve matters concerning the
27 need for the project and its impact on the environment and ecology of the state raised during the
28 course of proceedings before the Committee and the Commission, and as such, serve as the

1 Committee's and Commission's findings on the matters raised; and, (4) in light of these conditions,
 2 the balancing in the public interest required by A.R.S. § 40-360.07(B) results in favor of granting the
 3 CEC as modified by the Commission.

4 IT IS ORDERED that the Certificate of Environmental Compatibility issued to Duke Energy
 5 Arlington Valley L.L.C. by the Arizona Power Plant and Line Siting Committee on January 15, 2002,
 6 approved as modified by Commission Decision No. 64357, and further modified on rehearing by
 7 Decision No. 64495, is hereby affirmed by this Amended Decision No. 64495.

8 IT IS FURTHER ORDERED that Amended Decision No. 64495, entered by the Commission
 9 to clarify its previous order shall become effective immediately.

10
 11 **APPROVED AS AMENDED BY ORDER OF THE**
 12 **ARIZONA CORPORATION COMMISSION**
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15 _____
 16 CHAIRMAN

COMMISSIONER

COMMISSIONER

17
 18 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
 19 Secretary of the Arizona Corporation Commission, have
 20 hereunto, set my hand and caused the official seal of the
 21 Commission to be affixed at the Capitol, in the City of Phoenix,
 22 this _____ day of _____, 2002.

23 _____
 24 BRIAN C. McNEIL
 25 Executive Secretary

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